

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.344 OF 2022
WITH
INTERIM APPLICATION NO. 2409 of 2022
IN
APPEAL FROM ORDER NO.344 OF 2022
WITH
INTERIM APPLICATION NO. 2408 of 2022
IN
APPEAL FROM ORDER NO.344 OF 2022

P. Kovil Raj

.. Appellant

Versus

Mani Subhayya Nadar

.. Respondent

...

Mr. Sanjay Prabhu i/b Aradhana Prabhu for the appellant/
applicant.

Mr. S.S. Kharat for the respondent.

CORAM: BHARATI DANGRE, J.
DATED : 12th APRIL, 2022

P.C:-

1 Heard learned counsel for the appellant, who is aggrieved by an order passed by the City Civil Court, Gr.Mumbai on 16/12/2021, granting leave to defend the Summary Suit filed by the plaintiff, on a condition of he depositing sum of Rs.Four lakhs on or before the next date of hearing.

2 The plaintiff filed a Suit before the City Civil Court, seeking a judgment and decree against the defendant for a sum of Rs.5,74,000/- and for further interest on the principal amount of Rs.Four lakhs along with interest @ 18%, by pleading that the plaintiff had advanced friendly loan to the defendant with a promise to repay. The amount was advanced in the month of June 2015 on account of the close acquaintance between the parties, but since the defendant refused to repay the same and thereafter issue a cheque of Rs.Four lakhs dated 30/7/2016, drawn on Tamilnad Mercantile Bank in favour of the plaintiff, with promise to honor and since the cheque came to be dishonored on account of insufficient funds in the account, he sought judgment and decree.

 The defendant sought permission to defend the suit, which is granted subject to deposit of Rs.Two lakhs.

3 Considering the financial distress expressed by the defendant through his counsel, who is present in the Court, the leniency is granted in his favour by modifying the order passed by the City Civil Court by reducing the amount of Rs.Four lakhs to an amount of Rs.Two lakhs, subject to deposit of the aforesaid amount as directed by the learned Judge within a period stipulated by him, the defendant shall be permitted to defend the suit.

 With the aforesaid modification, the AO is disposed off.

The original plaintiff is entitled to prefer an application to the learned Judge for appropriating the said amount and it is upto him to grant the said application.

The slashed amount of Rs.Two lakhs, is permitted to be deposited within the period prescribed within a period of 30 days from today.

In view of the disposal of the AO, Interim Applications stand disposed off.

(SMT. BHARATI DANGRE, J.)